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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,650	07/23/2003	Robert R. Ricci	FS-00747	6898
7055	7590	01/06/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			HUYNH, LOUIS K	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 01/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/624,650

**Applicant(s)**

RICCI ET AL.

**Examiner**

Louis K. Huynh

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The application is hereby re-opened and a new non-final rejection is as follows:

#### ***Specification***

2. The disclosure is objected to because of the following informalities: "the packaging mechanism 110" on page 7, lines 14-15, should be changed to --the packaging mechanism 100--.

Appropriate correction is required.

#### ***Drawings***

3. The marked-up drawings were received on 9/14/2005. These drawings and the originally filed drawings had been reviewed and objected by the draftsman. See attached form PTO-948.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4-6, 9, 10, 13, 14, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 4, lines 2-3: "wrap attached between adjacent packaged sequenced products" lacks proper antecedent basis. No wrapping device has been set forth in the claim and/or previous claims.
- Claim 5, line 2: "wrap between adjacent packaged sequenced products" lacks proper antecedent basis. No wrapping device has been set forth in the claim and/or previous claim.

- Claim 7, line 3: “parameter of the packaged sequenced product” lacks proper antecedent basis because the claim and/or previous claim does not set forth any device(s) or means for inputting or detecting the parameter of the packaged sequenced product.
- Claim 9, lines 2-3: “wrap attached between adjacent packaged sequenced products” lacks proper antecedent basis. No wrapping device has been set forth in the claim and/or previous claim.
- Claim 10, lines 3-4: “parameter of the packaged sequenced product” lacks proper antecedent basis because the claim and/or previous claim does not set forth any device(s) or means for inputting or detecting the parameter of the packaged sequenced product.
- Claim 10, lines 7-8): “the interconnection between adjacent packaged sequenced product” lacks proper antecedent basis.
- Claim 13, lines 1-2: “further comprising means for serrating wrap” renders the claim indefinite because the means for dropping (110) already includes the serrating device according to the specification at page 7, lines 10-11; therefore, it is unclear as to what/where the claimed means for serrating wrap is.
- Claim 13, line 2: “wrap which wraps the product into the individual packages” lacks proper antecedent basis. No wrapping device has been set forth in the claim and/or previous claims.
- Claim 14, line 2: “to serrate that the wrap” is confusing.

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- Claim 16, lines 1-2: “further comprising means for cutting wrap” renders the claim indefinite because the means for dropping (110) already includes the cutting device according to the specification at page 7, lines 10-11; therefore, it is unclear as to what/where the claimed means for cutting wrap is.
- Claim 16, line 2: “wrap which wraps the product into the individual packages” lacks proper antecedent basis. No wrapping device has been set forth in the claim and/or previous claims.
- Claim 17, line 2: “to cut that the wrap” is confusing.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 7, 8, 11, 12, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Odenthal (US 4,676,050).

With respect to claims 1, 11 and 15, Odenthal discloses a packaging system including: a packaging device (21) having an output end (belt 7) for conveying closed bags of product (6), a clamping device (belts 9 & 10) adjacent to the output end (7) of the packaging device (21) for clamping the bags of product (6), and a conveying system (26) downstream from the clamping device (9 & 10) for moving a container (1) while receiving the bags of products (6) from the clamping device (9 & 10). It is known in art of packaging that a packaging machine, such as the packaging device of Odenthal, includes a hopper for containing the product, a meter for metering

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a correct amount of product to be packaged; therefore, devices are considered to be equivalent to the claimed means for sequencing product as recited in claim 11.

With respect to claims 2 and 12, the particular product to be packaged has not been given patentable weight because the product itself does not form a part of the claimed apparatus.

Furthermore, each individual bag of product produced by the packaging device of Odenthal can be mailed individually or as a group directly to the consumer; therefore, the product of Odenthal can be considered to be a mail piece.

With respect to claims 3 and 15, the clamping device (9 & 10) holds each of the bags of product until the container (1) is in position for receiving the bags (col. 6, lines 56-59).

With respect to claim 7, Odenthal teaches that the motion of the container (1) can be controlled when resistant force between the container and the support is too great for the insertion of the bags into the container (1) (col. 6, lines 31-41); hence, the packaging system of Odenthal does include a controller for controlling the motion of the container (1).

With respect to claim 8, the bags of product (6) are vertically stacked in the container (1) by the clamping device (9 & 10) in the packaging system of Odenthal (Fig. 1).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4-6, 9, 10, 13, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odenthal (US 4,676,050) in view of Stock et al. (US 4,019,947).

With respect to claim 4-6, 9, 14 and 16, the packaging system of Odenthal is a form-fill-seal machine which inherently includes a cutting device for cutting wrapping material between individual bags of product, which meets all of applicants claimed subject matter but lack the specific teaching of a serrating device for serrating wrap between adjacent bags of product. However, perforating and/or complete severing wrapping material between sealed packages by a serrating device included in a typical form-fill-seal packaging machine is well known in the art of packaging; for example, Stock discloses a sealing and severing mechanism having a toothed knife (230) for perforating and/or cutting wrapping material between sealed packages. Therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have provided the packaging device of Odenthal with a serrating mechanism, as taught by Stock, in order to perforate and/or completely cut the wrapping material between the sealed bags of product. Regarding the additional cutting device as recited in claims 6 and 9, the serrating device in the modified system of Odenthal is considered to include the cutting device.

With respect to claims 10 and 17, the packaging system of Odenthal meets all of applicants claimed subject matter but lack the specific teaching of a controller for controlling the movements of the conveyor, the clamping device, the serrating device and the cutting device. However, it is old and well known that all movements of essential parts in a packaging system must be controlled in order to be in synchronization with each other for the purpose of producing packages at the highest rate with the best quality, furthermore, at the time of the invention technology has allowed incorporation of digital information system into mechanical system in order to control, optimize and synchronize mechanical movements within the system; therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have

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modified the packaging system of Odenthal by having included a controller for controlling all mechanical movements within the system, as allowed by current technology, in order to produce the bags of product at the highest rate with the best quality.

10. Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman (US 3,815,321) in view of Linder (US 4,683,708).

With respect to claims 1, 3, 8 and 11, Hartman discloses an apparatus including: an automatic packaging device having an output end (conveyor 35) for packaging bags of product (39), a clamping device (hopper 35 & gate 23) adjacent the output end of the packaging device, a conveying system (chain 251, motor 267, sprockets 253, etc.) downstream of the clamping device (35 & 23) for moving a container (71a) incrementally; wherein the clamping device (35 & 23) holds the each bag of product and drops the bag of product into the container when the container is moved incrementally to a position for receiving the bag of product in a vertical orientation. The apparatus of Hartman meets all of applicants claimed subject matter but lack the specific teaching of the packaging device being a device for packaging sequenced products. However, device for packaging sequenced products is well known in the art and is discloses in the patent to Linder, which sequences printed sheets (9), groups the sequenced printed sheets (9), wraps the group of sequenced printed sheets (9) into a package (209) of sequenced products and conveys the wrapped products on an output conveyor for later processing such as boxing for distribution to designated locations. Therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have provided the apparatus of Hartman with the packaging device of Linder for forming bags of product. It would also have been obvious to a



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skilled person in the art, at the time of the invention, to have provided the packaging device of Linder with the apparatus of Hartman for placing a plurality of the packages of sequenced products into a shipping container.

With respect to claim 2, the packaged product in the modified apparatus of Hartman includes printed matter which can be mailed via US Postal office.

With respect to claim 7, the modified apparatus of Hartman would include switching system for controlling the incremental movement of the container (Hartman, col. 18, lines 41-66).

11. Claims 4-6, 9, 10, 13, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman in view of Linder as applied to claim 1 above; and further in view of Stock et al. (US 4,019,947).

With respect to claim 4-6, 9, 14 and 16, the modified apparatus of Hartman would include a severing device (39) as disclosed in the Linder's packaging device but does not expressly teach that the severing device comprises a serrating device. However, perforating and/or complete severing wrapping material between sealed packages by a serrating device included in a typical form-fill-seal packaging machine is well known in the art of packaging; for example, Stock discloses a sealing and severing mechanism having a toothed knife (230) for perforating and/or cutting wrapping material between sealed packages. Therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have further provided the modified apparatus of Hartman with a serrating mechanism, as taught by Stock, in order to perforate and/or completely cut the wrapping material between the sealed the packages of

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sequenced products. Regarding the additional cutting device as recited in claims 6 and 9, the serrating device in the modified apparatus of Hartman is considered to include the cutting device.

With respect to claims 10 and 17, the modified apparatus of Hartman meets all of applicants claimed subject matter but lack the specific teaching of a controller for controlling the movements of the conveyor, the clamping device, the serrating device and the cutting device. However, it is old and well known that all movements of essential parts in a packaging system must be controlled in order to be in synchronization with each other for the purpose of producing packages at the highest rate with the best quality, furthermore, at the time of the invention technology has allowed incorporation of digital information system into mechanical system in order to control, optimize and synchronize mechanical movements within the system; therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have further modified the apparatus of Hartman by having included a controller for controlling all mechanical movements within the system, as allowed by current technology, in order to produce the packages of sequenced products at the highest rate with the best quality.

### ***Conclusion***

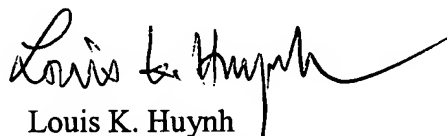
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied references.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

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14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh  
Primary Examiner  
Art Unit 3721

December 29, 2005